



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON, D.C. 20370-5100

JRE

Docket No: 4345-98

11 October 2000



Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 5 October 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies. The Board was unable to locate your disability evaluation proceedings, which are presumed lost.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice. In this regard, the Board was not persuaded that you met the criteria for a rating of 60% or higher at the time of your permanent retirement by reason of physical disability on 1 July 1994. It noted that rating guidance for your condition is found in SECNAVINST 1850.4C, which was in effect at that time. It provided, in effect, that the rating for your condition would be based on the degree of functional impairment caused by the condition. A 60% rating required repeated attacks of angina pectoris at rest or with normal activity, with more than light manual labor precluded. Available records indicate that you were able to exercise to 10 metabolic equivalents, or "METS", or capable of ordinary manual labor. With regard to your request for cancellation of indebtedness, the Board was unable to conclude that material error or injustice exists in connection with the proposed collection of the overpayment of your disability retired pay.

In view of the foregoing, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be

taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director